

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #12	CCRB Case #: 201602084	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/13/2016 12:26 PM	Location of Incident: Avenue M and East 80th Street; Paerdegat Avenue North and Paerdegat 11th Street	Precinct: 69	18 Mo. SOL 9/13/2017	EO SOL 9/13/2017	
Date/Time CV Reported Sun, 03/13/2016 1:05 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 03/14/2016 8:33 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			069 PCT
2. POM Anthony Sica	16031	953402	069 PCT
3. SGT Jason Sanders	04663	937481	069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Scott Mark	27345	950823	069 PCT
2. POM Abdelhai Sahel	05775	957120	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Jason Sanders	Discourtesy: In the vicinity of Avenue M and East 80th Street in Brooklyn, Sergeant Jason Sanders gestured discourteously toward § 87(2)(b)	
B.SGT Jason Sanders	Abuse: On Paerdegat Avenue North and Paerdegat 11th Street in Brooklyn, Sergeant Jason Sanders refused to provide his name and shield number to § 87(2)(b)	
C.POM Anthony Sica	Discourtesy: On Paerdegat Avenue North and Paerdegat 11th Street in Brooklyn, PO Anthony Sica spoke discourteously to § 87(2)(b)	
D.SGT Jason Sanders	Abuse: On Paerdegat Avenue North and Paerdegat 11th Street in Brooklyn, Sgt. Jason Sanders searched § 87(2)(b)	
E. An officer	Force: On Paerdegat Avenue North and Paerdegat 11th Street in Brooklyn, an officer used a chokehold against § 87(2)(b)	
F.SGT Jason Sanders	Abuse: On Paerdegat Avenue North and Paerdegat 11th Street in Brooklyn, Sergeant Jason Sanders threatened § 87(2)(b) with the use of force.	

Case Summary

On March 13, 2016, § 87(2)(b) called the CCRB to file this complaint. In addition, § 87(2)(b) filed a complaint with IAB in regards to this incident (Log No. 2016-9408).

That same day, at approximately 12:26 p.m., § 87(2)(b) was walking to work in the vicinity of Avenue M and East 80th Street in Brooklyn, when he observed Sgt. Jason Sanders and PO Anthony Sica, from the 69th Precinct, stopping a vehicle. Recognizing PO Sica from a previous incident, § 87(2)(b) yelled to PO Sica asking whether he heard that criminal charges had been dropped. § 87(2)(b) was standing in the middle of East 80th Street. Sgt. Sanders allegedly gave § 87(2)(b) the middle finger (**Allegation A**). § 87(2)(b) continued walking and approximately a block and a half later, PO Sica and Sgt. Sanders drove next to § 87(2)(b) exited their vehicle, and told him to stop. § 87(2)(b) asked Sgt. Sanders for his name and shield number, and Sgt. Sanders did not provide it to him (**Allegation B**). PO Sica allegedly told § 87(2)(b) to shut the “fuck” up, and that § 87(2)(b) better “fucking” comply (**Allegation C**). § 87(2)(b) was wearing a backpack. Either Sgt. Sanders or PO Sica removed the backpack from § 87(2)(b)s back. Sgt. Sanders unzipped the small front pocket of the backpack and put his hand inside (**Allegation D**). § 87(2)(b) was placed against a gate behind him, and in the process an officer allegedly wrapped their fingers around § 87(2)(b)s throat (**Allegation E**). PO Sica handcuffed § 87(2)(b). PO Sica issued § 87(2)(b) a summons for disorderly conduct. Sgt. Sanders put his hand on his holstered gun and allegedly told § 87(2)(b) “I’m going to release you. If you try to fight me or any of my officers, just know” (**Allegation F**). PO Sica issued § 87(2)(b) a § 87(2)(b) summons (**07 Board Review**) and the officers left the scene.

PO Scott Mark and PO Abdelhai Sahel arrived at the location post FADO allegations, and did not have any substantive interaction with § 87(2)(b).

§ 87(2)(b) a female civilian passerby, provided a telephone statement to the CCRB in regards to this incident, and refused to provide her last name or any further identifying information.

§ 87(2)(b) was issued a § 87(2)(b) summons as a result of this incident (**07 Board Review**).

There is no video evidence in regards to this case.

This case was originally assigned to Investigator Laura Kastner and was reassigned to Supervising Investigator Nicholas Carayannis on June 13, 2016, upon Investigator Kastner’s promotion. This case was re-assigned to Investigator Tessa Yesselman on June 23, 2016. This case is being submitted past the 90-day benchmark due to multiple investigator reassignments.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(f), § 87(2)(e), [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On May 11, 2016, a Notice of Claim Inquiry returned negative results from the NYC Comptroller's Office.

Civilian and Officer CCRB Histories

- § 87(2)(b) has four prior complaints with the CCRB. § 87(2)(b)
- PO Sica has been a member of service for three years, with one previous allegation and no substantiation.
- Sgt. Sanders has been a member of service for eleven years and has five previous allegations, with three allegations of physical force, and no substantiations.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) stated that he was wearing a backpack, and that either PO Sica or Sgt. Sanders removed the backpack and unzipped the small front pocket. § 87(2)(b) could not recall which officer did this (**01 Board Review**). PO Sica stated that § 87(2)(b)'s backpack was removed from § 87(2)(b) and opened, but could not recall whether he or Sgt. Sanders did this (**04 Board Review**). § 87(2)(b) stated that one of the officers opened § 87(2)(b)'s backpack, and described the officer as a tall white man in his 40's who seemed to be in charge of the scene, which matches Sgt. Sanders description. § 87(2)(g)
- § 87(2)(b) alleged that he was pushed against the fence, and in the process of being pushed, an officer wrapped their fingers around his neck. § 87(2)(b) could not ascribe this action to either PO Sica or Sgt. Sanders (**01 Board Review**). Both PO Sica (**04 Board Review**) and Sgt. Sanders (**03 Board Review**) denied making any contact with § 87(2)(b)'s neck or throat. The investigation was unable to determine the identity of the officer who allegedly wrapped their fingers around § 87(2)(b)'s neck, § 87(2)(g)

Allegations not pleaded

- § 87(2)(g)
- **Abuse of Authority:** § 87(2)(b) alleged that he asked PO Sica for his name, and that PO Sica replied that § 87(2)(b) already knew his name, and that his name was visible on his shirt. § 87(2)(b) supplied the investigation with PO Sica's name, § 87(2)(g)

Allegation A -Discourtesy: In the vicinity of Avenue M and East 80th Street in Brooklyn, Sergeant Jason Sanders gestured discourteously toward § 87(2)(b)

§ 87(2)(b) stated that while PO Sica and Sgt. Sanders were conducting a traffic stop, § 87(2)(b) recognized PO Sica, spoke to him, and in response, Sgt. Sanders gave § 87(2)(b) the middle finger (**01 Board Review**).

Sgt. Sanders denied giving § 87(2)(b) the middle finger (**03 Board Review**).

§ 87(2)(g)

Allegation B- Abuse of Authority: On Paerdegat Avenue North between Paerdegat 11th Street and Paerdegat 12th Street in Brooklyn, Sgt. Jason Sanders refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) stated that he asked PO Sica and Sgt. Sanders for their name and shield numbers. PO Sica pointed to his name and shield number on his uniform, which was visible to § 87(2)(b). Sgt. Sanders similarly told § 87(2)(b) to read the information off of his shirt, but Sgt. Sanders angled his body so that § 87(2)(b) could not view it **(01 Board Review)**.

§ 87(2)(b) filed this complaint the day after interacting with PO Sica and Sgt. Sanders. At the time that he filed the complaint, he was able to provide the names of PO Sica and PO Mark, who briefly responded to the location as backup, he was not able to provide Sgt. Sanders name.

Sgt. Sanders did not recall whether § 87(2)(b) ever asked him or PO Sica for their name and shield numbers **(03 Board Review)**.

PO Sica stated that § 87(2)(b) asked both he and Sgt. Sanders for their name and shield numbers. PO Sica told § 87(2)(b) that the information was visible on his shirt, and also explained to § 87(2)(b) that he already knew his name, which was evident from § 87(2)(b) having previously yelled PO Sica's name. PO Sica did not recall how Sgt. Sanders responded to § 87(2)(b)'s request **(04 Board Review)**.

§ 87(2)(b) stated that § 87(2)(b) asked both PO Sica and Sgt. Sanders for their name and shield numbers, and that both officers told § 87(2)(b) that the information was visible on their shirts. § 87(2)(b) was handcuffed at this time, and as such, was unable to record the information. § 87(2)(b) did not hear § 87(2)(b) say that he could not see the information **(02 Board Review)**.

§ 87(2)(g)

Patrol Guide Procedure 203-09 states that officers must “courteously provide [their] rank, name, shield number, and command, or otherwise provide them, to anyone who requests [them] to do so. Allow the person ample time to note this information” **(11 Board Review)**.

§ 87(2)(g)

§ 87(2)(g)

Allegation C- Abuse of Authority: On Paerdegat Avenue North between Paerdegat 11th Street and Paerdegat 12th Street in Brooklyn, Sgt. Jason Sanders searched § 87(2)(b)'s backpack.

§ 87(2)(b) stated that he was walking away from PO Sica and Sgt. Sanders, when one of the officers pulled his backpack off of his back. The officer unzipped the small front pocket of the backpack, and then threw the backpack to the ground. § 87(2)(b) did not know if the officer searched through the pocket. § 87(2)(b) was in handcuffs for approximately twenty minutes (**01 Board Review**).

PO Sica stated that he told Sgt. Sanders he wanted to stop § 87(2)(b) and issue him a summons in regards to § 87(2)(b)'s behavior. PO Sica never intended to arrest § 87(2)(b) and § 87(2)(b) was never considered under arrest. § 87(2)(b)'s backpack was removed from his back. Either PO Sica or Sgt. Sanders unzipped the front pocket of the backpack for officer safety. PO Sica did not recall if he or Sgt. Sanders unzipped the pocket of the backpack (**04 Board Review**).

Sgt. Sanders stated that neither he nor PO Sica removed § 87(2)(b)'s backpack from his person, and that § 87(2)(b) took the bag off himself. § 87(2)(b)'s backpack was placed on the ground. Sgt. Sanders did not recall at which point § 87(2)(b) took the backpack off during the interaction. Sgt. Sanders did not open any of the pockets on the backpack, nor did he see PO Sica do so. § 87(2)(b) was considered under arrest for § 87(2)(b) and his reticence in providing identification. Sgt. Sanders ultimately used his discretion in issuing § 87(2)(b) a summons in lieu of arresting him. Sgt. Sanders did not recall whether he or PO Sica ever told § 87(2)(b) that he was under arrest, and stated that § 87(2)(b) was wearing handcuffs for approximately five minutes (**03 Board Review**).

§ 87(2)(b) stated that one of the officers unzipped § 87(2)(b)'s backpack and put his hand inside. The officer did not remove anything from the backpack. § 87(2)(b) described the officer who searched § 87(2)(b)'s bag as a tall white man in his 40's, who seemed to be in charge. (**02 Board Review**).

§ 87(2)(g)

People v. Rodriguez, 18 Misc.3d 1124A (Sup. Ct. Bronx Cty. 2008); People v. Miranda, 19 N.Y.3d 912 (2012) An officer is permitted to search a person when a limited frisk for weapons reveals an object which feels like a weapon or when an object, such as a knife, becomes plainly visible to an officer during the issuance of a summons (**13 Board Review**).

People v. Hurdle, 2012 N.Y. App. Div. Lexis 1507 (App. Div. 1st Dep't. 2012) (**15 Board Review**);

People v. Gray, 41 Misc.3d 133 (A) (Sup. Ct. App. Term 1st Dep't. 2013) An officer may search a person incident to a lawful arrest (**12 Board Review**).

People v. Reid, 2014 NY Slip Op 08759 A search must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not (**14 Board Review**).

§ 87(2)(g)

Allegation C- Discourtesy: On Paerdegat Avenue North between Paerdegat 11th Street and Paerdegat 12th Street in Brooklyn, PO Anthony Sica spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that he left the area where Sgt. Sanders and PO Sica were conducting the vehicle stop. Sgt. Sanders and PO Sica stopped § 87(2)(b) shortly after, and § 87(2)(b) verbally expressed his discontent in being stopped. PO Sica told § 87(2)(b) to shut the “fuck” up and that § 87(2)(b) better “fucking” comply (**01 Board Review**).

PO Sica stated that he did not tell § 87(2)(b) to shut the “fuck” up or that § 87(2)(b) better “fucking” comply, and did not use any other discourteous language while interacting with § 87(2)(b) (**04 Board Review**).

Sgt. Sanders stated that he did not hear PO Sica tell § 87(2)(b) to shut the “fuck” up or that § 87(2)(b) better “fucking” comply, and did not hear any other discourteous language used (**03 Board Review**).

§ 87(2)(b) did not hear § 87(2)(b) PO Sica, or Sgt. Sanders use any profanity (**02 Board Review**).

§ 87(2)(g)

Allegation D- Force: On Paerdegat Avenue North between Paerdegat 11th Street and Paerdegat 12th Street in Brooklyn, an officer used a chokehold against § 87(2)(b)

As noted in the explanation of subject officers section, the investigation was unable to determine the identity of the officer who allegedly used a chokehold against § 87(2)(b) § 87(2)(g).

Allegation E- Abuse of Authority: On Paerdegat Avenue North between Paerdegat 11th Street and Paerdegat 12th Street in Brooklyn, Sergeant Jason Sanders threatened § 87(2)(b) **with the use of force.**

§ 87(2)(b) stated that Sgt. Sanders placed his hand on his gun and said, “I’m going to release you. If you try to fight me or any of my officers, just know” (**01 Board Review**).

Sgt. Sanders denied having said, “I’m going to release you. If you try to fight me or any of my officers, just know.” Sgt. Sanders did not otherwise verbally threaten § 87(2)(b) with the use of force. Sgt. Sanders placed his hand on his gun out of habit **(03 Board Review)**.

PO Sica did not hear Sgt. Sanders state, “I’m going to release you. If you try to fight me or any of my officers, just know,” and PO Sica did not hear Sgt. Sanders otherwise threaten § 87(2)(b) with the use of force. PO Sica did not see Sgt. Sanders place his hand on his gun **(04 Board Review)**.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED].

Squad: 12

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date